

AMENDED IN SENATE MARCH 28, 2003

**SENATE BILL**

**No. 312**

**Introduced by Senator Machado**

February 19, 2003

---

An act to amend Sections 65591 and ~~65591.5~~ 65592 of, to amend the heading of Article 10.8 (commencing with Section 65591) of Division 1 of Title 7 of, ~~and to add Section 65591.3 to~~ *to add Sections 65591.3, 65591.7, 65600.1, 65600.2, 65600.3, 65600.4, 65600.5, 65600.6, and 65600.7 to, and to repeal Sections 65591.5, 65595, and 65596 of*, the Government Code, relating to water conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 312, as amended, Machado. Urban Landscape Water Conservation Act of 2003.

~~Existing~~

(1) *Existing* law, known as the Water Conservation in Landscaping Act, requires the Department of Water Resources to adopt a model local water efficient landscape ordinance ~~which~~ *that* each local agency may adopt and requires a local agency to adopt a water efficient landscape ordinance by January 1, 1993, unless the local agency adopts specified findings that an ordinance is unnecessary.

This bill would rename the act as the Urban Landscape Water Conservation Act of 2003 and would ~~declare the Legislature's intent to modify the model water efficient landscape ordinance developed pursuant to the act to better promote the efficient use of water in the landscape while respecting the economic, environmental, aesthetic, and lifestyle choices of individuals and property owners~~ *expand the act to apply to all new landscaping and all new rehabilitated landscaping for public agency projects and private developments that require a permit*

and developer-installed landscaping in new single-family and multifamily projects. The bill would also require, after January 1, 2005, that public water systems serving 3,000 or more connections install or require the installation of, water meters, thus imposing a state-mandated local program.

The bill would provide for a revised model local water efficient landscape ordinance and the appointment of a task force, until 30 days following the submission of its final report, or July 1, 2005, whichever occurs first, with specified members to work with the department to develop, evaluate, and recommend, among other things, guidelines and proposals for improving the efficiency of water use in new and existing urban irrigated landscapes in the state. The bill would also require the department to hold a public hearing regarding the proposed guidelines and revised model ordinance and to distribute these to local agencies no later than January 31, 2006.

The bill would also require the revised model ordinance to take effect one year after its adoption by the department in all local jurisdictions, except where the local agency adopts and maintains a revised model ordinance that meets certain requirements or adopts a resolution containing specified findings, as specified. Local agencies that enforce the revised model ordinance by July 1, 2006, or have adopted their own, shall be eligible during the 2007 and 2008 fiscal years for priority consideration when seeking specified funding for local capital improvement and other infrastructure projects.

The bill would also require the department to issue an unspecified amount in competitive grants during the 2004 fiscal year to support weather-sensitive irrigation controller pilot projects and to develop recommendations, no later than July 1, 2010, regarding the statewide application of this technology.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.



Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

SECTION 1. The heading of Article 10.8 (commencing with  
Section 65591) of Division 1 of Title 7 of the Government Code  
is amended to read:

Article 10.8. Urban Landscape Water Conservation Act of  
2003

SEC. 2. Section 65591 of the Government Code is amended  
to read:

65591. This article may be cited and shall be known as the  
Urban Landscape Water Conservation Act of 2003.

SEC. 3. Section 65591.3 is added to the Government Code, to  
read:

65591.3. The Legislature finds and declares all of the  
following:

(a) Adequate water supply reliability for all uses is essential to  
the future economic and environmental health of this state.

(b) Developing environmentally and economically sound  
strategies to meet future water supply and wastewater treatment  
needs is key to protecting and restoring aquatic resources in this  
state.

(c) Economic analysis by urban water agencies and the goals  
and objectives of the CALFED Bay-Delta Program Record of  
Decision have identified urban water conservation as a  
cost-effective approach to addressing water supply needs.

(d) The CALFED Record of Decision calls for an ambitious  
statewide urban water use efficiency program, above and beyond  
the implementation of current best management practices for  
water use efficiency, and includes linkages that ensure balanced  
implementation of the 12 CALFED program elements in the four  
problem areas.

(e) There is a clear public interest in ensuring that the highest  
practicable level of landscape water use efficiency is achieved  
throughout the state.

(f) During the 10 years since the signing of the “Memorandum of Understanding Regarding Urban Water Conservation in California,” many urban water and wastewater treatment agencies have gained valuable experience that can be applied to produce significant statewide savings of water, energy, and associated infrastructure costs. This experience indicates a need to regularly revise and update water conservation methodologies and practices.

(g) Recent advances in landscape design, irrigation technology, and landscape maintenance practices have been developed.

(h) Coordination between state and local agencies, as well as the landscape industry, could lead to significantly increased landscape water use efficiency.

~~SEC. 4. Section 65591.5 of the Government Code is amended to read:~~

~~65591.5. (a) It is the intent of the Legislature that the Department of Water Resources prepare and promote the use of a model water efficient landscape ordinance which local agencies may adopt.~~

~~(b) It is the intent of the Legislature that the Department of Water Resources adopt a model water efficient landscape ordinance based on recommendations from a task force representing the landscape, water, and building industries, local agencies, and others.~~

~~(c) It is the intent of the Legislature that the task force reach general agreement on those provisions which will be included in the model water efficient landscape ordinance.~~

~~(d) It is the intent of the Legislature that the task force consider the most recent information on efficient landscape irrigation technologies and those elements of existing water efficient landscape ordinances which have proven successful in reducing water consumption.~~

~~(e) It is the intent of the Legislature to modify the model water efficient landscape ordinance developed pursuant to this article to better promote the most efficient use of water in the landscape while respecting the economic, environmental, aesthetic, and lifestyle choices of individuals and property owners.~~

~~SEC. 4. Section 65591.5 of the Government Code is repealed.~~

~~65591.5. (a) It is the intent of the Legislature that the Department of Water Resources prepare and promote the use of a~~

~~model water efficient landscape ordinance which local agencies may adopt.~~

~~(b) It is the intent of the Legislature that the Department of Water Resources adopt a model water efficient landscape ordinance based on recommendations from a task force representing the landscape, water, and building industries, local agencies, and others.~~

~~(c) It is the intent of the Legislature that the task force reach general agreement on those provisions which will be included in the model water efficient landscape ordinance.~~

~~(d) It is the intent of the Legislature that the task force consider the most recent information on efficient landscape irrigation technologies and those elements of existing water efficient landscape ordinances which have proven successful in reducing water consumption.~~

~~(e) It is the intent of the Legislature that the model water efficient landscape ordinance developed pursuant to this article promote the most efficient use of water in the landscape while respecting the economic, environmental, aesthetic, and lifestyle choices of individuals and property owners.~~

*SEC. 5. Section 65591.7 is added to the Government Code, to read:*

*65591.7. (a) Except as provided in subdivision (b), this article shall apply to all of the following:*

*(1) All new landscaping and all new rehabilitated landscaping for public agency projects and private developments that require a permit.*

*(2) Developer-installed landscaping in new single-family and multifamily projects.*

*(b) Except as provided pursuant to Section 65600.7, this article shall not apply to any of the following:*

*(1) Homeowner-provided landscaping at single-family residences and multifamily condominium or cooperative projects.*

*(2) Cemeteries.*

*(3) Registered historical sites.*

*(4) Ecological restoration projects that do not require a permanent irrigation system.*

*(5) Mine-land reclamation projects that do not require a permanent irrigation system.*

1     (6) *Any project with a landscaped area that is less than 2,500*  
2 *square feet.*

3     SEC. 6. *Section 65592 of the Government Code is amended to*  
4 *read:*

5     65592. Unless the context requires otherwise, the definitions  
6 used in this section govern the construction of this article:

7     (a) “Department” means the Department of Water Resources.

8     (b) “Estimated total water use” means the annual total amount  
9 of water estimated to be needed to keep the plants in the  
10 landscaped areas healthy, and is based upon factors that include,  
11 but are not limited to, the local evapotranspiration rate, the size  
12 of the landscaped area, the types of plants, and the efficiency of the  
13 irrigation system.

14     (c) “Evapotranspiration” means the quantity of water  
15 evaporated from adjacent soil surfaces and transpired by plants  
16 during a specific time.

17     (d) “Evapotranspiration adjustment factor” means the  
18 numeric value that, when applied to reference evapotranspiration,  
19 adjusts for plant factors and irrigation efficiency to yield the  
20 amount of water that needs to be applied to the landscape.

21     (e) (1) “Landscaped area” means an entire parcel of land  
22 excluding all of the following:

23     (A) Building footprint.

24     (B) Nonirrigated portions of parking lots.

25     (C) Hardscapes, including, decks, patios, and driveways.

26     (D) Other nonporous areas, vegetable gardens, orchards, and  
27 unirrigated native vegetation.

28     (2) Exterior water features, including ponds, fountains,  
29 ornamental pools, and spas are included in the calculation of the  
30 landscaped area.

31     (f) “Local agency” means any city, county, or city and county.

32     ~~(e)~~

33     (g) “Maximum applied water allowance” means the upper  
34 limit of annual applied water for the established landscaped area,  
35 based upon the area’s reference evapotranspiration, the  
36 evapotranspiration adjustment factor, and the size of the  
37 landscaped area.

38     (h) “Reference evapotranspiration” means a standard  
39 measurement of environmental parameters that affect the water  
40 use of plants in a specific geographic location, derived from the

1 *evapotranspiration of a large field of four- to seven-inch tall,*  
2 *cool-season grass that is well watered.*

3 (i) *“Rehabilitated landscaped area” or “rehabilitated*  
4 *landscaping” means any relandscaping project that requires the*  
5 *issuance of a permit.*

6 (j) *“Water efficient landscape ordinance” means an ordinance*  
7 *or resolution adopted by a local agency to address the efficient use*  
8 *of water in landscaping.*

9 (k) *“Water service provider” shall have the same meaning as*  
10 *“urban water supplier” pursuant to Section 10617 of the Water*  
11 *Code.*

12 *SEC. 7. Section 65595 of the Government Code is repealed.*

13 ~~65595. If by January 1, 1993, a local agency has not adopted~~  
14 ~~a water efficient landscape ordinance or has not adopted findings~~  
15 ~~based on climatic, geological, or topographical conditions, or~~  
16 ~~water availability, which state that a water efficient landscape~~  
17 ~~ordinance is unnecessary, the model water efficient landscape~~  
18 ~~ordinance adopted by the department pursuant to subdivision (a)~~  
19 ~~of Section 65594 shall take effect on January 1, 1993, and shall be~~  
20 ~~enforced by the local agency and have the same force and effect~~  
21 ~~as if adopted by the local agency.~~

22 *SEC. 8. Section 65596 of the Government Code is repealed.*

23 ~~65596. To the extent feasible, local agencies that adopt a water~~  
24 ~~efficient landscape ordinance after the model water efficient~~  
25 ~~landscape ordinance is adopted by the department, shall consider~~  
26 ~~the provisions of the model.~~

27 *SEC. 9. Section 65600.1 is added to the Government Code, to*  
28 *read:*

29 *65600.1. (a) Not later than February 1, 2004, the department*  
30 *shall appoint an advisory task force to work with department staff*  
31 *to develop, evaluate, and recommend proposals for improving the*  
32 *efficiency of water use in new and existing urban irrigated*  
33 *landscapes in the state, including the drafting of revisions to the*  
34 *model local water efficient landscape ordinance adopted by the*  
35 *department pursuant to Section 65594. The department shall chair*  
36 *the task force.*

37 (1) *The task force shall consist of one member from each of the*  
38 *following:*

39 (A) *The Resources Agency.*

40 (B) *The State Department of Health Services.*



- 1 (C) *The State Water Resources Control Board.*  
2 (D) *The CALFED Bay-Delta Program.*  
3 (E) *The United States Department of the Interior, if that agency*  
4 *wishes to participate.*  
5 (2) *The task force shall also include, as determined by the*  
6 *department:*  
7 (A) *One representative of landscape contractors.*  
8 (B) *One representative of the manufacturers or designers of*  
9 *irrigation equipment.*  
10 (C) *One representative of the Green Industry Council of*  
11 *California.*  
12 (D) *One representative of the building and construction*  
13 *industry.*  
14 (E) *Two representatives of retail urban water suppliers.*  
15 (F) *One representative of urban water wholesalers.*  
16 (G) *Two representatives from recognized environmental*  
17 *advocacy groups.*  
18 (H) *One representative from the League of California Cities.*  
19 (I) *One representative from a community-based organization*  
20 *involved in urban water conservation programs.*  
21 (J) *One representative from the California Urban Water*  
22 *Conservation Council.*  
23 (K) *One representative from the University of California.*  
24 (L) *One representative from the California State Association of*  
25 *Counties.*  
26 (b) *The task force shall examine and report by February 1,*  
27 *2005, on the following matters:*  
28 (1) *Review and make recommendations for strengthening the*  
29 *Model Water Efficient Landscape Ordinance (Division 2, Title 23,*  
30 *California Code of Regulations, Chapter 2.7) in the following*  
31 *areas:*  
32 (A) *The “ET Adjustment Factor.”*  
33 (B) *Incentives for use of reclaimed or recycled water in new*  
34 *landscapes.*  
35 (C) *Incentives for the protection or restoration of native*  
36 *vegetation in new public agency projects and private*  
37 *developments subject to the model ordinance.*  
38 (D) *Full accounting for the replacement water required by*  
39 *evaporation losses of water features, including ponds, fountains,*  
40 *ornamental pools, and spas, when calculating the estimated total*



1 water use and the maximum applied water allowance of new  
2 landscaped areas.

3 (E) Minimizing overspray and runoff, and ensuring uniform  
4 irrigation throughout each hydrozone within the irrigated area.

5 (F) Provisions for verifying the compliance of new landscaped  
6 areas upon their installation with the requirements of the  
7 ordinance.

8 (G) Periodic review of the operation, maintenance, and  
9 resulting water efficiency of landscapes installed under the  
10 provisions of the ordinance.

11 (H) Simplified requirements and compliance procedures for  
12 small builders.

13 (I) Other proposals for strengthening the model ordinance as  
14 the task force may recommend.

15 (J) Identification of minimum factors that may be included in  
16 any alternative local water efficient landscape ordinance.

17 (2) Devise and recommend guidelines that can be used by a  
18 local agency or other interested parties to evaluate any local water  
19 efficient landscape ordinance for consistency with and  
20 equivalency to the model ordinance as revised pursuant to this  
21 article.

22 (3) Review and make recommendations on the following  
23 additional matters:

24 (A) Potential labeling requirements and performance  
25 standards for landscape irrigation equipment, including  
26 weather-sensitive irrigation controllers and other equipment sold  
27 or installed in California.

28 (B) Potential use and application of water budgets for irrigated  
29 landscaped areas.

30 (C) Potential standardized training and certification  
31 requirements for personnel engaged in the business of the design,  
32 installation, operation, or maintenance of irrigated landscapes,  
33 including water budgets.

34 (D) Potential use of incentives and disincentives to encourage  
35 the adoption and implementation of landscaping efficiency  
36 measures.

37 (E) Other measures for improving the water efficiency of  
38 existing irrigated landscapes.

39 (F) Areas for further research and development regarding  
40 water efficient plant varieties, water efficient irrigation

1 equipment, and remote monitoring of landscape water  
2 consumption, together with plans for organizing, funding, and  
3 conducting such research.

4 (c) The task force shall cease to exist on the date which is 30  
5 days following the submission of its final report, or July 1, 2005,  
6 whichever occurs first.

7 SEC. 10. Section 65600.2 is added to the Government Code,  
8 to read:

9 65600.2. (a) Not later than January 1, 2006, the department,  
10 after holding a public hearing, shall do both of the following:

11 (1) Adopt all revisions to the model local water efficient  
12 landscape ordinance recommended by the task force established  
13 pursuant to Section 65600.1 that are deemed by the department to  
14 improve the efficiency of water use in landscapes or otherwise  
15 improve the effectiveness of the model ordinance.

16 (2) Adopt guidelines, recommended by the task force, and  
17 deemed by the department to be appropriate, that can be used by  
18 a local agency or other interested parties to evaluate any local  
19 water efficient landscape ordinance for consistency with and  
20 equivalency to the model ordinance as revised.

21 (b) Not later than January 31, 2006, the department shall  
22 distribute the revised model ordinance and the guidelines for local  
23 agencies to determine the efficacy of local water efficient  
24 landscape ordinances to all local agencies and shall post such  
25 model ordinance and guidelines on its official Web site.

26 SEC. 11. Section 65600.3 is added to the Government Code,  
27 to read:

28 65600.3. (a) On the date that is one year after the date upon  
29 which the revised model local water efficient landscape ordinance  
30 is adopted by the department pursuant to subdivision (a) of Section  
31 65600.2, the model ordinance shall take effect and remain in effect  
32 within the jurisdiction of each local agency, and shall be enforced  
33 by the local agency and have the same force and effect as if adopted  
34 by that local agency, except within the jurisdiction of any local  
35 agency that does either of the following:

36 (1) Adopts and maintains in effect a new or revised water  
37 efficient landscape ordinance that meets all of the following  
38 requirements:

39 (A) Is at least as effective in achieving landscape water  
40 efficiency as the model local ordinance adopted by the department

1 *pursuant to subdivision (a) of Section 65600.2, when evaluated*  
2 *using the guidelines adopted by the department pursuant to this*  
3 *article.*

4 *(B) Addresses each of the major elements of the revised model*  
5 *ordinance.*

6 *(C) Addresses any other factors determined by the local agency*  
7 *to be necessary to achieve the local agency's landscape water*  
8 *conservation objectives.*

9 *(D) Is forwarded by the local agency to the department within*  
10 *60 days of adoption.*

11 *(2) Adopts a resolution containing findings substantiating that*  
12 *100 percent of the reference evapotranspiration of cool season*  
13 *grass is met in at least six consecutive months by natural*  
14 *precipitation throughout its jurisdiction, which resolution must be*  
15 *readopted no less frequently than every five years, and forwards*  
16 *each resolution to the department within 60 days of adoption.*

17 *(b) Local agencies that adopt a new or revised water efficient*  
18 *landscape ordinance prior to July 1, 2006, may seek technical*  
19 *assistance from the department by requesting the department to*  
20 *review and provide comment on the new or revised water efficient*  
21 *landscape ordinance to make a determination that it is at least as*  
22 *effective as the revised model local water efficient landscape*  
23 *ordinance, pursuant to the guidelines established under*  
24 *subdivision (a) of Section 65600.2.*

25 *SEC. 12. Section 65600.4 is added to the Government Code,*  
26 *to read:*

27 *65600.4. The department shall establish by January 1, 2007,*  
28 *and update not less frequently than every five years thereafter, a*  
29 *directory to be posted on the department's official Web site that*  
30 *shall contain both of the following:*

31 *(a) The revised water efficient landscape ordinances adopted*  
32 *by local agencies and submitted to the department pursuant to*  
33 *paragraph (1) of subdivision (a) of Section 65600.3.*

34 *(b) The resolutions adopted by local agencies and submitted to*  
35 *the department pursuant to paragraph (2) of subdivision (a) of*  
36 *Section 65600.3.*

37 *SEC. 13. Section 65600.5 is added to the Government Code,*  
38 *to read:*

39 *65600.5. (a) If, by July 1, 2006, a local agency is either*  
40 *enforcing the revised model water efficient landscape ordinance*

1 *adopted by the department pursuant to subdivision (a) of Section*  
2 *65600.2, or has adopted its own new or revised ordinance that it*  
3 *has determined through the use of the guidelines adopted by the*  
4 *department pursuant to subdivision (a) of Section 65600.2, to be*  
5 *at least as effective as the revised model ordinance, the local*  
6 *agency shall be eligible during the 2007 and 2008 fiscal years for*  
7 *priority consideration among local agency applicants for funding*  
8 *by the California Infrastructure and Economic Development*  
9 *Bank, and for priority consideration among local agency*  
10 *applicants for funding pursuant to Division 24 (commencing with*  
11 *Section 78500) and Division 26 (commencing with Section 79000)*  
12 *of the Water Code, to the extent consistent with those divisions,*  
13 *when seeking funding for local capital improvement and other*  
14 *infrastructure projects.*

15 *(b) No provision in this chapter shall affect the allocation of per*  
16 *capita funds to the local government entities pursuant to Section*  
17 *5096.332 or Section 5096.333 of the Public Resources Code.*

18 *SEC. 14. Section 6500.6 is added to the Government Code, to*  
19 *read:*

20 *6500.6. Beginning July 1, 2007, the department shall take*  
21 *into consideration the adoption and enforcement status of the local*  
22 *water efficient landscape ordinance of a local agency applying for*  
23 *any of the following:*

24 *(a) A competitive grant or loan for water use efficiency*  
25 *measures.*

26 *(b) A competitive grant or loan for water recycling*  
27 *infrastructure assistance.*

28 *(c) Drought assistance.*

29 *SEC. 15. Section 65600.7 is added to the Government Code,*  
30 *to read:*

31 *65600.7. (a) After January 1, 2005, a public water system*  
32 *serving 3,000 or more service connections shall install, or require*  
33 *the installation of, a separate water meter used exclusively to*  
34 *measure the volume of water delivered to either of the following:*

35 *(1) Any new irrigated landscaped area of 5,000 square feet or*  
36 *more.*

37 *(2) Any new rehabilitated irrigated landscaped area of 5,000*  
38 *square feet or more.*

39 *(b) After January 1, 2006, the water usage measured by the*  
40 *water meters serving any irrigated landscaped area pursuant to*

1 *subdivision (a) shall be used in whole or in part for regular billing*  
2 *purposes by the public water systems.*

3 *(c) Not later than January 1, 2012, a public water system*  
4 *serving 3,000 or more service connections shall install, or require*  
5 *the installation of, a separate water meter used exclusively to*  
6 *measure the volume of water delivered to an irrigated landscaped*  
7 *area of one acre or more, and the water usage measured by the*  
8 *water meters serving the irrigated landscaped area shall be used*  
9 *in whole or in part for regular billing purposes by the public water*  
10 *systems.*

11 *SEC. 16. (a) The Department of Water Resources shall issue*  
12 *\$\_\_\_\_\_ in competitive grants during the 2004 fiscal year to support*  
13 *weather-sensitive irrigation controller pilot projects in various*  
14 *climatic regions and soil conditions across the state.*

15 *(b) Grantees shall prepare and submit a report to the*  
16 *department by July 1, 2009, analyzing the water savings and*  
17 *cost-effectiveness of the project.*

18 *(c) The department shall, no later than July 1, 2010, develop*  
19 *recommendations regarding the statewide applicability of this*  
20 *technology.*

21 *SEC. 17. Notwithstanding Section 17610 of the Government*  
22 *Code, if the Commission on State Mandates determines that this*  
23 *act contains costs mandated by the state, reimbursement to local*  
24 *agencies and school districts for those costs shall be made*  
25 *pursuant to Part 7 (commencing with Section 17500) of Division*  
26 *4 of Title 2 of the Government Code. If the statewide cost of the*  
27 *claim for reimbursement does not exceed one million dollars*  
28 *(\$1,000,000), reimbursement shall be made from the State*  
29 *Mandates Claims Fund.*